

The Inevitable Resemblance between Terrorism and Genocide

A case study of Boko Haram committing a genocide under international law.

Josephine Lianne van den Akker

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Universiteit van Leiden

Supervisor: Dr. Mirjam de Bruijn

Abstract:

According to the Global Terrorism Index, Nigeria's Boko Haram is one of the world's most deadly insurgencies. Even though there have been national as well as international efforts to try and halt the sect, with the latest attack on June 16th 2018, they can still be seen as claiming many lives today. Looking at genocide according to the United Nations Convention on the Prevention and Punishment of the Crime Genocide, it can be argued that Boko Haram is committing a genocide under international law. No definition of genocide is as internationally recognised and legally binding as the United Nations definition in the Convention on the Prevention and Punishment of the Crime Genocide. Despite this, throughout history the United Nations and the international community have been reluctant to name various crimes a genocide, as this would result to the increased legal and moral pressure for the international community to respond. An example is during the Rwandan genocide in 1994. Since this genocide, the United Nations has continuously claimed that genocides can never 'happen again'. However, looking at Nigeria and Boko Haram there has been no claim of a genocide according to the United Nations. If the United Nations would officially recognise Boko Haram as committing a genocide under international law, the international community would legally be pressured to respond to the violence.

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Chapter 1

1.1 Introduction

In 2001, after the attack on the Twin Towers on September 11, the American president George W. Bush declared a 'war on terror' to stop the worldwide emergence of terrorism. The year after this declaration seemed to be successful and many people believed that terrorism was truly on a decline (Jackson). However in 2002, according to Max Roser there were only 1,332 terrorist related incidents worldwide, compared to 13,488 terrorist related incidents in 2016 this indicates that there has been a worldwide increase of terrorism (Roser). Many insurgencies around the world have officially been declared as terrorist organisations by the United Nations (UN), with insurgencies such as the Islamic State of Iraq and Syria, Boko Haram, and Al-Shabaab, these internationally declared terrorist organisations are seen as an international security threat. Despite the common belief that terrorism predominantly affects the western part of the world, there are only a handful of countries that suffer the most from these militants. The three countries suffering the most from these internationally proclaimed terrorist organisations are Iraq, Afghanistan and Nigeria (Dudley). Terrorism is understood as the use of violence to gain awareness for a political cause (Roser). Boko Haram in Nigeria is an Islamic militant group that fights for a Nigerian state under Sharia Law, liberated from any western influence. Boko Haram has internationally been addressed by the United States of America, the UN and the African Union as a terrorist organisation. Looking at the UN strategies for the prevention of terrorism, there is no legal obligation for the international community to respond to a terrorist organisation. The UN does not impose any ratified convention on having to respond to a terrorist organisation, which has been established for the crime of genocide. Looking at Boko Haram's crimes against the Nigerian population, can Boko Haram be seen to fit the UN definition of a genocide under international law. The UN has formulated an internationally recognised definition of genocide. However there remains an ongoing debate on whether the UN definition is the most effective definition. Since reoccurring failures to identify or predict genocides, and specifically after the Rwandan genocide in 1994, the UN has been criticised by various scholars for its delayed identification and prediction of a genocide. This has led to several scholars critiquing the UN definition for not being inclusive enough. Many scholars have reformulated the definition of genocide trying to make it easier to identify a genocide at an earlier stage and avoid the uncertainty of whether a genocide is officially happening. Despite these efforts, no definition is as internationally recognised as the definition by the UN. According to the UN's 1948 Convention on the Prevention and Punishment of the Crime Genocide, genocide is seen as an

independent crime. Within this convention there is an international legal obligation for all member states to try and prevent a genocide, as well as respond to an occurring genocide when it can be seen to fit the legal genocide framework (“Convention on the Prevention and Punishment of the Crime of Genocide”). Therefore, to what extent can Boko Haram be seen as committing a genocide under international law according to the UN, and how does this increase the legal pressure for the international community to respond to the insurgency in Nigeria?

1.2 Methodology

In order to look at whether Boko Haram could be seen as committing a genocide under international law, and what the international implications of this would be, I will have to start by researching what genocide is. Genocide is a complex term with various scholars debating on what the official definition should be. The first definition of genocide was created by Raphael Lemkin. His definition compared to the definitions of other scholars, indicates a debate on the criteria under which a mass murder should officially be addressed as a genocide. Despite the large variety of definitions, the United Nation’s genocide explanation is the most internationally acknowledged definition. For a genocide to legally be taking place according to international law, it must correspond to the United Nation’s Convention on the Prevention and Punishment of the Crime Genocide. To analyse which definition would work the best for my research I looked at existing literature. I used this literature to analyse which definition is legally binding and also to examine what the legal obligation is when a genocide can be seen to fit the definition. Boko Haram is primarily active in Nigeria however attacks in surrounding countries are not uncommon. I decided to solely focus on Nigeria in my research to try and identify a consistent pattern in who Boko Haram is targeting within one country. To research whether Boko Haram fits the United Nation’s definition of genocide, I will use various news sources. Boko Haram has been guilty of thousands of attacks on local citizens but not all of these attacks have been reported by all news institutions. I therefore used a variety of news sources, including local Nigerian news as well as western news. Therefore a predominant amount of my research on whether Boko Haram is committing a genocide under international law is based on news articles, and my research on what the international implications would be of acknowledging Boko Haram as committing a genocide will be based on academic literature.

Chapter 2

2.1 How can we define a genocide?

In this literature review I will examine what the definition of genocide is, and when something officially can be classified as a genocide under international law. Despite the legal acknowledgment that genocide is a crime against humanity, there seems to be a common pattern of the international community often failing to acknowledge and recognise genocides around the world (Cole 20). Raphael Lemkin is the man who gave the mass murder of genocide a name. In 1944 Lemkin coined the word genocide in response to what he saw unfold during the Holocaust (Bloxham 21). Lemkin was a Polish lawyer who was from Jewish descent himself. Having lost 49 relatives during the holocaust he was appalled by how evil people could truly be. He decided to dedicate his life on understanding, defining and forbidding a genocide from ever happening again (Jones 9). Though the term was coined during a period of genocide, Lemkin argues that genocide is not a new or unfamiliar practice, but that it has been around for centuries, it just did not have a name associated to it yet (79). The term originates from the Greek word *genos*, which means race or tribe and the Latin word *cide*, meaning killing (Lemkin 79). According to Lemkin the main objective of a genocide is the "destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves" (79). Though Lemkin was the founder of the term as well as the first one to define the concept, many scholars have since then constructed their own definition for genocide, primarily because they believe Lemkin's definition to be flawed and missing essential criteria. One scholar who decided to redefine the term was Frank Chalk. He defines genocide as "a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator" (151). There are a few significant differences between Chalk and Lemkin's definitions, one of these is that Chalk claims that genocide is solely the killing of people with the intention of destroying a specific group. Lemkin on the other hand, looks at how the destruction of essential foundations is also an important part of the definition of genocide. Lemkin sees genocide not solely as the killing of people. According to Lemkin's definition one can be guilty of committing a genocide in more ways than just by mass killings. Lemkin looks at how genocide can also be seen as purposefully disintegrating the existence of social, political, religious, linguistic, cultural, and economic institutions, or the national feelings of a specific group (79). Therefore Lemkin focuses on the many different ways a genocide can be committed against a specific group of people, instead of the common assumption that genocide is only a genocide when there are targeted mass killings of a specific group (Lemkin

79). Even though there are differences between the two definitions by Chalk and Lemkin, there are also similarities, for example they both focus on the targeting of the whole group. This is however not the case in Peter Drost's definition. Drost claims that "genocide is the deliberate destruction of physical life of individual human beings because of their membership of any human collectivity as such" (15). Unlike in Lemkin's and Chalk's definitions, Drost does not focus on the fact that genocide is only a genocide when there is an attempt of annihilating the whole group. Drost is critical of Lemkin's definition and looks at how the killing of people because of their belonging to a specific group is enough of a characteristic of genocide (15). This definition by Drost could therefore include more examples of mass murder than the other definitions looked at (15). Drost's definition also focuses on the importance of deliberate killing in genocide. Both Chalk and Lemkin do not mention this in their definition. According to Drost this is an important aspect of genocide, as the unintentional killing of people belonging to a certain group, for example through disease, should not be classified as a genocide (15). Just like Drost, Donald Bloxham is another scholar who looks critically at Lemkin's definition. He believes that Lemkin's definition is imprecise and also believes that mass murder should be the core of the definition of genocide (Bloxham 28). Looking at the work of Lemkin and Drost, we can see that it is quite old compared to the more modern scholars such as Chalk and Bloxham, who redefined the definition of genocide around the end of the 20th century and the begin of the 21st century. According to Bloxham, Lemkin and Drost's work only looks at limited cases of genocide which is not enough to understand the term genocide. Bloxham argues that Lemkin did not properly understand what genocide really was, as Bloxham believes that "the destruction of cultural symbols" is not actually a form of genocide (Bloxham 25). Bloxham claims that modern scholars, like himself, are the ones who have really shaped the term genocide into what it truly is, which he believes is mass murder (Bloxham 21). However, whether the definition of genocide should focus primarily on the mass murder of citizens or on the destruction of institutions, according to Bloxham this is not the most important unanswered question. He claims that all definitions fail to address who the perpetrators are in a genocide. Despite Bloxham arguing that modern genocide scholars played an important role in redefining genocide, there are many modern scholars who disagree with Bloxham's definition. For example, Chalk does not specify in his definition on who the perpetrators are in a genocide, by saying "as that group and membership in it are defined by the perpetrator" the perpetrator could be anyone (151). Chalk does not specify on a distinct group of people who could be seen as the perpetrators in a genocide, that as long as there is a mass murder it is a genocide no matter who the perpetrator is (Chalk 151). This is different from Irving Louis Horowitz's definition. Horowitz defines genocide as a "structural and systematic

destruction of innocent people by a state bureaucratic apparatus" (23). Horowitz therefore does address Bloxham's concern on who the perpetrators, as he claims that a genocide is most often committed or initiated by the state itself. This is a lot more specific than Chalk's choice of using the term 'perpetrator'. Chalk's definition implies that a genocide can be committed by anyone, whilst Horowitz's definition implies that a state always plays a role in the committing of a genocide, that a genocide can not occur between two independent groups of people, with neither of them having any form of state authority. This therefore acknowledges Bloxham's primary concern that a definition must identify the perpetrators in a genocide, however paradoxically Horowitz is not a modern genocide scholar, which Bloxham claims to be important when defining a genocide.

Looking at the literature, all scholars seem to have their own opinion on how a genocide should be defined. It shows us that all definitions vary and that there is not one universal definition that can cover all aspects claimed to be crucial in defining a genocide. Huttenbach is a scholar who avoided using any kind of details when defining genocide, he believes that "genocide is any act that puts the very existence of a group in jeopardy" (297). Huttenbach claims that even though historically genocides were often initiated by states, this does not mean that genocides can exclusively be carried out by states, as Horowitz does claim in his definition. Huttenbach believes that a definition should not specify on the perpetrators, as this is irrelevant to the actual understanding of genocide (297). Though this can be a strength in Huttenbach's definition, his definition is unspecific and could therefore incorporate many more acts of violence than when looking at the definitions by Lemkin, Chalk or Horowitz. Despite the ample amount of new definitions that have evolved since the coining of the term, Lemkin's original definition has played the most important role in the contemporary internationally known definition of genocide. All scholars in their literature refer to Lemkin's definition of genocide, whether positive or negative, they all seem to use his work as a starting point for their own work (United Nations Convention 280). Despite being the first scholar to officially give the crime of genocide a name, he is also one of the only scholars, looked at in my literature review, who has personally witnessed and suffered from the crimes of a genocide. After he made the UN aware of the crime, the UN officially adopted the act of genocide as an independent crime under international law. In 1948 the "Convention on the Prevention and Punishment of the Crime Genocide" became official, and became a universal explanation of what a genocide is and what it officially entails. In the convention, genocide is defined as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such : (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group

conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group" (United Nations Convention 280). However, as with Lemkin's definition, there is a lot of criticism on the UN's definition of genocide. David Chuter in his work criticises the convention as he believes that this explanation of genocide is flawed. Chuter claims that the UN definition of genocide should be more inclusive (82). The UN convention specifies that genocide is "any of the following acts", which would indicate that the definition is in theory is not very inclusive, as "any of the following" could be interpreted that not all crimes need to be present for something to be genocide, which Chuter disagrees with. Therefore according to Chuter if only one of the acts is present during a genocide, it should not automatically be a genocide under international law (82). This could however exclude multiple cases of genocide. Another criticism by Chuter is that the UN only focuses on a genocide committed against a national, ethnical, racial or religious group, and that the killing of a political group would therefore officially not be addressed as a genocide (Chuter 82). Chuter argues that excluding political groups in the definition makes it even harder to identify a genocide, due to the fact that some political groups could also be interpreted as ethnic or religious groups. Chuter who himself has worked as a political adviser throughout his career, believes that political groups should be added to the definition to prevent any genocide not being recognised as a crime under international law, just because the victims belong to a political group instead of a ethnic, national or religious group (82). Author Abram de Swaan, who also has a political background, agrees with Chuter's criticism on the failure of not including political groups in the definition, and that the killing of people because of their political opinion is just as much a genocide as a group killed for its national, ethnic, racial or religious belonging (De Swaan 6). Chalk also addresses the flaws within the UN's convention on genocide, he agrees with De Swaan and Chuter that political groups need to be added to the definition. However he also believes that it is wrong to exclude social groups from the definition, unlike De Swaan and Chuter, Chalk is a sociologist, known for his book on the "Sociology of Genocide" (151). Therefore Chalk's belief that social groups can also be at risk of genocide and should be added to the UN's definition could be related to his educational background (151). This shows how the interpretation of the definition of genocide can be related to a scholar's academic background, making the definition very subjective. Chuter also argues that the UN definition, which could also be seen as a predominant aspect in Chalk's definition, claims that there is always an intent of destroying a group. However Chuter's problem with the specification of destroying a group "in whole or in part" is that he believes that there is never just one motive to committing a genocide (82). Chuter looks at how

"a government that undertook a campaign to destroy its political opponents and killed thousands of them might not be accused of genocide" should also be considered to commit a genocide, even though the direct motive was not to destroy a specific group (82). Chuter does not only disagree with the way the UN defines genocide, but he also looks at how the convention focuses more on interpreting the genocides of the past rather than how to prevent a genocide in the future (83).

2.2 The United Nations and Genocide

Looking at the literature review it is clear that genocide is hard to define. Even the internationally ratified definition by the UN has received a lot of criticism throughout the years. Despite these criticisms, the definition of the United Nations Convention on the Prevention and Punishment of the crime Genocide is the definition most states legally abide to. If a genocide fits the UN's convention definition and is officially declared a genocide by the UN, the 149 member states that have signed the convention are legally bound to try and prevent and respond to the genocide, which is not the case for any of the other definitions. Therefore to be able to analyse whether an insurgency such as Boko Haram is committing a genocide under international law, I will focus on the UN's definition of genocide.

Genocide is not a new phenomena and remains a serious security issue today. With recent genocides such as the mass killings in Rwanda, people are still at risk of being targeted because of their ethnic, cultural, religious or national belonging. After almost every genocide the UN and world exclaims "never again will we let this happen", however unfortunately this can be seen as far from the truth (Totten 6). Despite the UN having put a significant amount of effort into the establishment of the convention, since the initial creation of the convention in 1948, the UN has been strongly criticised due to the constant failures of actually preventing or responding to the genocides around the world (Totten 6). Scholars have accused the UN as well as the international community of not reacting efficiently enough, or not acting at all, to the early warning signs of a genocide (Totten 6). Totten looks at how the failure of the UN to respond to a genocide is nothing new, and that even right after the establishment of the convention, the UN does very little to prevent genocides from happening (6). According to Totten the main reason for this is that during the Cold War, the Soviet Union and the United States had all global political power. During this time it was very difficult for the UN to enact in any peacekeeping missions, as the members of the Security Council, including the USA and Soviet Union were constantly in political disagreement as they "used their power of veto to further their political views" during this period of tension (Totten 6). Both superpowers were reluctant to allow the UN to act in any countries where either of them had any possible military or

political interest. Therefore the UN could do very little to intervene in or prevent any genocides during the Cold War period (Totten 6). However, the post Cold War era would finally be the chance for the UN to be able to efficiently prevent genocide around the world, however unfortunately this was still not the case (Totten 7). Even today, the UN is having a hard time responding quickly and efficiently to genocide. Though there have been various efforts to respond to genocides, almost all plans were poorly executed leading to inefficient prevention (Totten 11). This can be seen to have been the case during the Rwandan genocide in 1994. In 4 months 800,000 people were slaughtered in the African country Rwanda, despite there being many early warning signs of a genocide, the UN did very little to stop it from happening (Jones 232). The world has witnessed many genocides, first in Rwanda and only a few years later in Darfur, however the Security Council has failed to initially recognise and respond to both genocides (Kamanzi 332). There is hardly ever a unanimous consensus between states and the UN that a genocide is happening or at risk of happening (Cole 20). Whilst the violence took its toll in Rwanda, the United Nations Security Council spent its time debating whether what was happening in Rwanda could really be addressed as a genocide (Kamanzi 330). Totten argues that the UN's choice to not respond to the Rwandan genocide was due to "the organisational culture and bureaucratic interests of the United Nations", as they were afraid to be associated with another failed UN mission, which was seen during the peacekeeping mission in Somalia shortly before the Rwandan genocide. Therefore rather than taking action, Totten believes the UN was reluctant to name and respond to the genocide as they feared to fail another mission (11). Ruwebana claims that it is unexplainable that a genocide is not prevented, as a genocide is easy to foresee, unlike other tragedies there are many early warning signs, and that there are therefore no excuses as to why a genocide can not be prevented (28). Grunfeld mentions in his book "The failure to prevent Genocide in Rwanda" that prior to the actual genocide in Rwanda, there were six official requests sent to the UN security council to request for a seizure of weapons in Rwanda, however all requests were turned down as they were never officially discussed at the Security Council meetings, and therefore failing to address the problem in Rwanda (130). This example reemphasises Ruwebana's claim that there are clear warning signs of a genocide. However whether the Security Council decides to respond to these warning signs is a different story. Besides the UN not intervening, neither did any of the 149 member states that ratified the UN genocide convention. According to Cole, decision makers in the United States of America were unsure whether the killings were due to ethnic or political unrest. Romeo Dallaire, who was the Major General of the United Nations Assistance Mission for Rwanda during the genocide believes that the killing of the Tutsis was initially just the killing of political enemies and therefore not legally a genocide

according to the convention (Cole 22). This reemphasises De Swaan and Chuter's earlier claim, that political groups should be included in the definition of genocide (Chuter 82). Therefore if political groups would have been added to the definition of genocide by the UN, Dallaire could have acknowledged that a genocide was happening much earlier and could possibly have prevented the mass murders (Cole 22). Towards the end of the genocide in 1994, the Security Council finally took the decision to send troops to Rwanda, however there were no troops willing to go. Jones looks at how this was due to the fact that Rwanda was just "too remote, too far, too poor, too little" for it to be worthwhile for the international community to send their troops (233). This could relate to Cole's claim that the US Departments of Defence and State were avoiding to address Rwanda as a genocide, as they feared that if they would recognise it as a genocide, they would legally be obliged to intervene according to the Convention on the Prevention and Punishment of Genocide (Cole 22). Though the United States did not deny that there were acts of genocide occurring, they refused to recognise the violence in Rwanda as a genocide under international law (Cole 22). Even after the UN security council officially addressed the violence in Rwanda as a genocide, the United States policy makers still referred to Rwanda as a civil war (Cole 23). This however was not only the case in the United States, other states were also reluctant to prevent or respond to the genocide, despite the first article of the convention stating that "the contracting parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish" ("Convention on the Prevention and Punishment of the Crime of Genocide" 280). Therefore whether it is the UN or the international communities's failure to respond, as soon as a genocide is confirmed according to the convention all contracting parties are legally obliged to undertake efforts to respond to the genocide (LeBor 13).

Bosnia, Rwanda and Darfur were all examples of genocides, that were not officially declared a genocide by the UN Security Council until after the killings had taken place (LeBor 13). In the case of Darfur, the International Commission of Inquiry (ICI) failed to acknowledge the genocide. Just as seen in Rwanda, they were reluctant to recognise the violence as a genocide (LeBor 201). In a report the ICI claimed that "generally speaking the policy of attacking, killing and forcibly displacing members of some tribes does not evince a specific intent to annihilate, in whole or in part, a group distinguished on racial, ethnic, national or religious grounds" (LeBor 201). LeBor strongly disagrees with this statement, claiming that genocide does not always have to mean the killing of a group in whole or in part (201). This relates back to Drost's claim that the killing of people because they belong to a specific group is enough of a characteristic to fit the genocide definition, and that the aim of these killings does not have to be to exterminate a whole group for it

to be addressed as a genocide (15). Further on in the report, the ICI claims that “the Commission does recognise that in some instances individuals, including Government officials, may commit acts with genocidal intent”, as seen in Rwanda there is acknowledgment of genocidal acts however no claim that the violence is officially a genocide (LeBor 201). LeBor claims that just as in Rwanda, the reason why Darfur was not being addressed as a genocide was due to the international pressure to prevent and respond to the genocide. Despite the term genocide being known as an international crime against humanity for more than 60 years, the UN and the international community can be seen as very reluctant to address the crimes as genocides due to the increased legal and moral pressure to respond (Cole 25). Despite the criticism towards the UN and the international community and their failures to respond to the genocides, there have been instances where the UN has been praised for its early warning actions and been able to prevent a genocide. Prior to the 2013 Kenyan elections, there was ethnic unrest due to a long history of ethnic division and the electoral rigging in 2007 (Sullivan). In the 2013 elections, the UN recognised the violence and tension identified in hate speech and together with the preceding violence the UN feared that without appropriate response the violence could develop into a genocide. Before the genocide had any possible chance of taking place, the international community and the UN responded to the ethnic violence and tension by making use of diplomacy and ground workers they were able to ensure peaceful elections (Sullivan). Looking at this case compared to the Rwanda and Darfur cases, we can conclude that if the early warning signs of a genocide are officially recognised by the UN as well as the international community, as done in Kenya, they could take appropriate actions and might prevent a genocide from happening.

Trying to define the term genocide is harder than one initially may think. Despite Lemkin being the first scholar to address the violent acts of genocide and giving the crime an official name, many people have since then redefined the term as they claimed the original definition to be lacking or insufficient. In 1946 the UN recognised genocide as a crime under international law, which since then has been ratified by 149 states. Despite the criticism, the convention provides a clear definition and explanation of genocide. In the literature it is clear that the international community and the UN have often failed to respond to the early warning signs of a genocide. As seen in the case of Kenya, if the UN and international community respond to the early warning signs, it may be possible to prevent a genocide. So even though the convention is critiqued it can also be an effective way to assess as well as to respond to a genocide. Especially because the convention is the only legally binding definition and explanation of genocide. Therefore looking at the convention and Boko

Haram, can this insurgency be seen as a genocide under international law, and how would this increase the legal pressure of having to respond to the genocide?

2.3 What is the legal response framework to a genocide?

When a genocide is identified and acknowledged by the UN as well as the international community, how are they legally expected to respond to the genocide? The UN claims that the most important moral reason to prevent or stop a genocide is to be able to preserve the human life in a nation and avoid the killing of people. However looking at it from an international politics perspective this is not the only reason as to why a genocide should be prevented. A country at risk of genocide can be seen as a threat to the international peace and security and could therefore affect many more states than the one state initially suffering from the genocide (“Framework of Analysis for Atrocity Crimes” 2). The UN claims that together with the international community they must try to prevent a genocide to avoid having to intervene afterwards. It is more cost efficient to prevent a genocide than to respond to the violence or aftermath of a genocide. Besides the moral responsibility to protect citizens, there is also a clear legal obligation to respond to a genocide according to the Convention on the Prevention and Punishment of the Crime of Genocide. Article I of the convention states that “the Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish” (“Convention on the Prevention and Punishment of the Crime of Genocide” 280), therefore the convention affirms that the states who have ratified the convention are legally obliged and responsible for the punishment as well as for the prevention of the crime of genocide. Despite pressure towards member states to respond to a genocide, the convention is a norm in customary law, and therefore all states whether they have or have not ratified the convention are obliged to prevent and respond to any violations of the international law, including genocide (“Framework of Analysis for Atrocity Crimes” 3). The international court of justice has stated that the imposed obligation of the prevention of genocide is not territorially linked, therefore any state with the “capacity to influence effectively the action of persons likely to commit, or already committing genocide” is obliged “to employ all means reasonably available to them, so as to prevent genocide so far as possible”, even if the genocide is beyond its own borders (“Framework of Analysis for Atrocity Crimes” 3). In 2005 at the World Summit organised by the UN, all member states made a commitment to the principle that the international community has the “responsibility to protect” its own population as well as assisting other states under pressure from war crimes, ethnic cleansing or genocide. Therefore when a state fails to protect its citizens from a genocide, the international

community should officially commit to taking action in a “timely and decisive manner” to help protect a state from a genocide (“Framework of Analysis for Atrocity Crimes” 3). Preventing a genocide is therefore the responsibility of the individual state as well as the international community. However as long as there is no official confirmation of a genocide taking place according to the UN, there is no legal obligation for a state to prevent the genocide. Once a genocide, or a risk of genocide, is acknowledged by the UN, the response mechanism requires states to provide a continuous effort to ensure there remains a respected rule of law and to ensure that the protection of human rights is maintained by establishing national institutions, eradicating corruption and by supporting a diverse civil society to try and halt a genocide (“Framework of Analysis for Atrocity Crimes” 4). Other than there being a legal responsibility to protect, enforced by the UN, there are other regional organisations that also aim to prevent genocide. The African Union (AU) recognises April 7th as the official commemoration day of the Rwandan genocide and aims to achieve the “remembrance of the victims of the genocide and reaffirmation of Africa’s resolve to prevent and fight genocide on the continent” (“23rd Commemoration of the Rwanda Genocide”). The AU has also been unsuccessful in the intervention of the Rwandan genocide. Since then the Peace and Security council of the AU has committed to prevent genocide from ever happening again in Africa. African states have therefore granted consent to the AU to intervene in a genocide, when the state, the government or another AU member state identifies a genocide (Abugbilla 235). In article 7 of the Peace and Security council, the AU claims to “anticipate and prevent disputes and conflicts, as well as policies, which may lead to genocide and crimes against humanity” (“Peace and Security Council”). However as long as the AU, the UN as well as the international community have not acknowledged Boko Haram as committing a genocide under international law there are no legal, moral or regional obligations for the world to respond to its actions.

Chapter 3

3.1 The Origins of Religious Tension in Nigeria and the Emergence of Boko Haram.

Nigeria is a multi-ethnic country which consists of two main religious groups at a nearly equal ratio. Muslims make up 48.8% of the population, and Christians make up about 49.3% (Wee). The remaining percentages are small indigenous religions or combinations of religions. The country is geographically split by the two main religions. The Northern region of Nigeria is predominantly Muslim, due to centuries of close contact with the Muslim Northern African communities, while the Southern region is mainly Christian due to colonial presence in history (Mohammed 11). In the 1940s, Britain started imposing aristocratic colonial education in limited exclusive areas in Nigeria, in an attempt to distinguish the “commoner classes” from the well educated in Nigeria. Within a few years there was an elitist group of western educated Nigerians who were yearning for a more important role in society, as they saw themselves as better educated than those who followed a more traditional Arabic education (Mohammed 11). In the late 1970s, Islamic scholars founded the Izala movement in the Northern region of Nigeria. The aim of the Izala was to preach “pure” Islam throughout Nigeria. The movement was critical of the corruption in the government, of the traditional rulers, and of the declining moral values of society in Nigeria (Mohammed 22). Within the next few years, as Nigeria’s economy was collapsing, and unemployment was on the rise, Izala was able to recruit thousands of followers (Oduyela 2). In 2003 a split from the Izala movement was formed by Mohammed Yusuf in the Northeastern region of Nigeria. He founded a religious group officially known as “Jama'atu Ahlis Sunna Lidda'awati wal-Jihad” meaning "People Committed to the Propagation of the Prophet's Teachings and Jihad”, and unofficially known as Boko Haram which means western civilisation is a sin (De Montclos 30). Yusuf’s teachings were based on purity, he was inspired by a legal scholar called Ibn Taymiyya, who preached about the importance of Islamic adherence to the Sharia law. In the early years of Boko Haram, Yusuf’s members of the sect were mostly school dropouts and unemployed university graduates, as Yusuf told them that if they would reject western education they would attain felicity (Akanni 77). He preached to his members that the reason that they were in such despair was because of the government imposed western education (Oduyela 4). Yusuf believed that Nigeria under Sharia law would eradicate all corruption as well as social injustice and inequalities (Ordu 35). One main difference between contemporary Boko Haram and the Boko Haram which emerged in 2002 is that Yusuf’s early preachings for the freedom of religion and a place for political Islam were very peaceful. On July 30, 2009, Mohammed Yusuf was arrested by the Nigerian security forces. A few days later the police

announced that Yusuf had been killed whilst trying to escape. Despite this claim, many people do not believe this is what actually happened. There have been theories that the police believed Yusuf to be a nuisance and therefore killed him, along with another 1000 Boko Haram members (Oduyela 7). This act of violence angered the members of Boko Haram, and led to the revolt and the radicalisation of the sect. Using video and audio tapes they broadcasted the message that they would wage a war against the authorities of Nigeria. From this day on, Boko Haram no longer preached peacefully but had shifted to the use of explosives, warfare, suicide bombing and assassination to fight its violent campaign. These uncommon attacks were led by Boko Haram's new spiritual leader called Imam Abubakar Shekau (Oduyela 7).

Nine years later, Boko Haram has the blood of over 54,700 people on its hands (Campbell 15). With hundreds of attacks and series of bombings and killings, Boko Haram is one of the most deadly militant organisations in the world ("Global Terrorism Index 2017"). Though most attacks have been concentrated in the north-eastern provinces in Nigeria, Boko Haram has also targeted surrounding areas in Nigeria and has also been active internationally, with attacks in Niger, Chad and Cameroon (Global Terrorism Index 2017). With 3123 attacks from 2012 to 2016, Boko Haram has become a central political issue in Nigeria (Torbjörnsson 20). On April 14, 2014, Boko Haram abducted 276 schoolgirls from the village Chibok. This was one of the first attacks that put Boko Haram on the international political radar. Through international efforts and negotiations between Boko Haram and the government, around 100 girls have been freed from the Boko Haram insurgency. However 4 years later there are still 113 girls missing ("Nigeria Chibok Abductions: What We Know."). In 2015 Boko Haram pledged allegiance to the Islamic State of Syria and Iraq ("The Historical Background of Boko Haram"). Since the emergence of Boko Haram the government has routinely claimed that the militant extremist movement in Nigeria is "technically defeated" and that sect leader Abubakar Shekau has been killed. These claims were later proven to be untrue. Even though Boko Haram has lost territorial power in Nigeria in 2015, Boko Haram still poses a security threat (Torbjörnsson 20). On February 4, 2018, a Nigerian army commander declared Boko Haram as defeated by claiming that "we have broken the heart and soul of Shekau's group, taking over the camp and its environs" (Odunsi). However on February 26, 2018, President Muhammadu Buhari reassessed this claim and openly admits that the insurgency has not been completely defeated as in 2018 alone Boko Haram has abducted around a 100 girls and killed dozens of people by suicide bombings (Campbell 15).

3.2 Has it ever been claimed that Boko Haram is Committing a Genocide under International Law?

There are many states that have recognised Boko Haram as a terrorist organisation, for example the US Department of State officially claimed Boko Haram as a terrorist organisation on November 11, 2013, and is still perceived as an active terrorist organisation today (“Foreign Terrorist Organizations”). Other than the US Department of State, larger international organisations such as the UN also regard Boko Haram as a terrorist organisation (“Released ‘Chibok Girls’ Have ‘Uphill Road to Climb’ to Reintegrate”). Regional organisations such as the AU have also claimed Boko Haram to be a terrorist organisation. Though all three organisation have acknowledged Boko Haram as a terrorist organisation and do not seem reluctant to use the term, none of the three have addressed Boko Haram as committing a genocide. One of Nigeria’s largest newspapers, The Nigerian Tribune, mentions that there are some warning signs that could indicate that Boko Haram could be guilty of committing a genocide in the future. However there is no mention of the fact that Boko Haram may currently be committing a genocide. For example in an article published on May 8, 2018, The Nigerian Tribune states that “people and organisations continue to call on government to do the needful before people will take up arms in defence and the country will find itself in anarchy or experience genocide” (“Drowning in Blood: Nigerians Protest Violent Deaths, Massacres across the Country”). By using words such as ‘before’ and ‘will’, they imply that a genocide is not happening yet, however if this violence continues a genocide could happen. Looking at western news sources like BBC, Reuters or the Economist, there are no articles that look at whether Boko Haram is committing a genocide. Though the Nigerian newspapers do not acknowledge that there is a genocide being committed by Boko Haram, they do look at the possibility of the violence developing into a genocide in the near future, unlike the western news sources. However looking at the development of the Rwandan genocide and the delayed acknowledgment, it is not surprising that there has been no claim of a genocide by the western news institutions. Keeping this in mind, one could expect that regional organisations would acknowledge the risk of a genocide, especially when local newspapers address the issue. Regional organisations such as the African Union and the Economic Community of West African States (ECOWAS) both aim to promote unity and prosperity between and within African states, however neither have acknowledged Boko Haram as committing a genocide under international law. The African Union includes all African states and they strive “towards a peaceful, prosperous and integrated Africa” (“AU in a Nutshell”). However there is no recognition of Boko Haram being guilty of committing a genocide in Nigeria. Even though the African Union has articles that discuss the Rwandan genocide and the importance of avoiding a genocide from ever happening again, they fail

to recognise a genocide taking place in Nigeria. The ECOWAS also fails to see Boko Haram as committing a genocide under international law. They have not acknowledged the risk of Boko Haram committing a genocide and as a consequence have not responded to the situation according to the treaties response mechanism for a genocide (“Economic Community of West African States: Revised Treaty”). One of the few organisations that officially recognises Boko Haram as committing a genocide under international law is the Genocide Watch. The Genocide Watch is an organisation that aims to “predict, prevent, stop and punish genocides or other mass murders” (“About us”). They look specifically at countries that are currently experiencing a genocide, and at countries that are at risk of a genocide in the near future. They categorise the specific countries according to the “10 stages of genocide” (Stanton). According to the Genocide Watch, Nigeria is suffering from a genocide and is currently in stage 9, which implies the extermination of people. However, the Genocide Watch has frequently been criticised for its ranking system and quick judgements on claiming that a genocide is taking place. Wilkinson has criticised their work and claims that they were “either unwilling or unable to provide evidence to show that the country meets the organisation's requirements of that stage” (Wilkinson). In the Nigerian genocide report of June 14, 2016, the Genocide Watch looks at how Boko Haram has planned and carried out thousands of attacks throughout Nigeria. However, as also identified in the criticism by Wilkinson, the Genocide Watch does not look at how these attacks can be seen as specific acts of genocide and how this would explain that Boko Haram is committing a genocide. It can therefore be seen as an explanation on what is happening in Nigeria rather than an explanation of how the militant group is committing a genocide (“Nigeria: Genocide Emergency”). Even though the Genocide Watch acknowledges that Boko Haram is committing a genocide, this does not mean that it will be recognised as a genocide under the United Nations Convention for the Prevention and Punishment of Genocide under international law. The United Nations Office on Genocide Prevention and the Responsibility to Protect’s role is to alert the United Nations Security Council if they believe there is a risk of a genocide. In response to these warnings the security council will then create regional and international arrangements to take appropriate preventions through institutional, conceptual, political or operational developments to try and prevent genocide (“Framework of Analysis for Atrocity Crimes” 4). Therefore as long as a genocide is not recognised by the UN Security Council as an official genocide there will be no international or national pressure to respond to it. Though the United Nations office on Genocide Prevention and the Responsibility to Protect looks at various current genocides, it does not look at Boko Haram as committing a genocide under international law.

Chapter 4

4.1 Is Boko Haram committing a genocide according to the UN Convention?

Despite the United Nations Security Council not addressing Boko Haram as committing a genocide, there are several reasons to believe that Boko Haram could be accused of committing a genocide according to the UN convention. Looking at the first sentence of the United Nations Convention on the Prevention and Punishment of the Crime Genocide, it says that "in the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group" ("Convention on the Prevention and Punishment of the Crime of Genocide" 280). The name Boko Haram as mentioned before means "westernisation is forbidden" and indicates who the main target group is for the Islamic militant organisation. As mentioned before, Boko Haram aims to halt and reverse the westernisation in Nigeria, that was initially enforced on citizens by the colonial powers (Mohammed 11). The fact that Boko Haram wants to spread Sharia law throughout Nigeria, would initially indicate that they are exclusively targeting the non-Islamic, thus Christian, part of the population. However this is not the case. Boko Haram believes that all type of westernisation in Nigeria should be forbidden, therefore anyone who attends a western based education, participates in an election or supports democratic elections, whether they are Christian or Muslim, are potential victims to Boko Haram ("Who Are Nigeria's Boko Haram Islamist Group?"). So both religious groups are targeted by Boko Haram. None the less, a significant amount of Boko Haram's attacks has been aimed at the Christian part of the population as well as Christian institutions, through the attacking of Christian worshippers, the kidnapping of Christian schoolgirls and the setting on fire of churches and the raiding of predominantly christian villages (Ola). However, the recent suicide attack on May 2, 2018 at a Mosque in Northeastern Nigeria that killed at least 27 people, indicates that Boko Haram's attacks are not solely aimed at one religion (Akinwotu). Therefore Boko Haram can be seen to target both the Muslim and Christian religious groups throughout Northeastern Nigeria. Hence the targeted group according to the definition of genocide under international law, consists of two religious groups rather than just one. One could therefore argue that Boko Harm does not traditionally fit the definition of genocide, as they also target their own religious group. However, Boko Haram's belief in the Islam can be seen as more traditional and stricter than the modern Islam which is adhered by the Muslim Nigerians who do not accord to Boko Haram's radical Islam. Boko Haram claims to follow the "authentic legacy" of the first Muslim communities, and people who do not follow this form of Islam are therefore seen as "unbelievers" (Thurston 9). Yusuf, the founder of

Boko Haram, wanted the Muslim community in Nigeria to follow these more traditional explanations of the Islam, as he exclaimed “we call the Muslim community to correct its creed and its behaviours and its morals... and to give children a correct Islamic education, then to undertake jihad in the way of Allah” (Thurston 9). We can see that Boko Haram therefore does not agree with the modern version of Islam in Nigeria, and therefore distinguishes itself from this specific group. Looking at Boko Haram’s perception of Islam and the more modern approach to Islam, one could even argue that Boko Haram is committing two genocides, one against the modern Islamic population and another against the Christian population in Nigeria. Nonetheless, the fact that Boko Haram wants to create a fully Islamic state under Sharia law, indicates that they must relieve Nigeria of all opposing religions, whether Christian or modern Islam. This relates back to the “with intent to destroy, in whole or in part” section of the genocide definition. Therefore the fact that Boko Haram is targeting two religious groups in combination with their goal of creating a fully Islamic state under Sharia law, indicates that they are targeting the religious groups that do not adhere to Boko Haram’s Islamic state. Therefore looking at Boko Haram trying to destroy the religious groups of Islam and Christianity in Nigeria, Boko Haram fits the initial explanation of a genocide according to the UN convention.

4.2 “Killing members of the group”

Killing specific members of the group is the first official “act of genocide” looked at in the convention of genocide. This aspect of the definition may be interpreted as a logical aspect of genocide. However in Lemkins original definition he claims how the "destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves" should be the official explanation of genocide (79). Therefore the fact that direct killing of people is an aspect of genocide that was only added to the definition when the convention was codified. According to the modern convention on genocide the killing of members of groups can be seen as an act of genocide. Looking at Boko Haram one can confirm the killing of members of Christian and Muslim religious groups. From the insurgency’s first attack in July 2009 until 2017, Boko Haram has killed over 54,700 Muslims and Christians throughout Nigeria (Campbell 15). From 2012 until 2015 Boko Haram was every year claimed as the deadliest terrorist organisation by the World Terrorism Index, with more deaths and attacks per year than any other internationally claimed terrorist organisation. One of Boko Haram’s deadliest attacks took place in 2015, when an estimated 2000 people were killed in just a few days (Muscati). On January 3, 2015, hundreds of Boko Haram militants raided the Northeastern village of Baga. People were forced to leave their

home as Boko Haram was torching down houses and killing anyone who resisted. This raid went on for four consecutive days (Muscati). Boko Haram is guilty of hundreds of high causality attacks. Some of these attacks killing Muslims and Christians simultaneously whilst others specifically aimed at one religious group. In 2011, two suicide bombs were detonated at a Christian church on Christmas day and over 40 people died. This attack on a church, as well as on a Christian holiday indicates that they were specifically targeting the Christian population (Plaut). Throughout the years there have been many attacks on churches. These have killed thousands of people but have also physically ruined many religious institutions, making them inaccessible to the remaining Christian population. As observed before, Christians are not the only victims to suffer from the horror of Boko Haram. Islamic people and institutions have also been targeted, as in the mosque attack in May 2018 (Akinwotu). Boko Haram being present in the Northeastern region of Nigeria has resulted in a prevailing number of attacks also being located in this area, which is also a predominantly Muslim region. People in the Northeastern region are proud of their western style universities and schools. Attacks on these western institutions has therefore also killed thousands of Muslims in Nigeria, for example in the attack on the University of Maiduguri in July 2017 (Maina). Looking at how the insurgency has killed over 54.700 Christians and Muslims, in relation to the act of killing members of the group in the genocide convention, it can be seen that Boko Haram fits this specific aspect of the definition.

4.3 “Causing serious bodily or mental harm to members of the group”

The causing of serious bodily or mental harm to members of the group can be interpreted in many different ways. The concept of harm is defined by the Oxford dictionary as “physical injury, especially that which is deliberately inflicted”. Therefore causing serious bodily or mental harm will look at whether Boko Haram has inflicted any form of mental or physical injury to the Christian and Muslim communities in Nigeria. The Genocide Watch explains the individual acts of genocide according to the convention, and specifies which actions could be seen to cause serious bodily or mental harm to an individual. These are “through widespread torture, rape, sexual violence, forced or coerced use of drugs, and mutilation” (Stanton). Therefore looking at the definition of the UN convention, and the specification of the Genocide Watch, can Boko Haram be seen as causing serious harm to members of the groups? Boko Haram can be seen to target many young women in its attacks. Large numbers of women have been abducted by Boko Haram over the last few years, and these women have been subjected to psychological as well as physical abuses. Whilst in custody of Boko Haram, these women have often been forced to work for the insurgents,

by cleaning, cooking or washing the militants blood stained clothes, as well as being forced to take part in attacks (“Those Terrible Weeks in Their Camp: Boko Haram Violence against Women and Girls in Northeast Nigeria” 26). Throughout the years, various videos have been released of kidnapped women who are chanting prayers in Arabic. Christian women have been forced to convert to the Islam, and have been threatened with death if they refuse. One woman explains how she was tortured because she did not believe in the Islam. She says “I was dragged to the camp leader who told me the reason I was brought to the camp was because we Christians worship three gods. When I objected to his claim, he tied a rope around my neck and beat me with a plastic cable until I almost passed out. An insurgent who I recognised from my village convinced me to accept Islam lest I should be killed. So I agreed” (“Those Terrible Weeks in Their Camp: Boko Haram Violence against Women and Girls in Northeast Nigeria” 29). This is however only one example of the thousands of women who have been tortured by Boko Haram due to their religious beliefs. Women have also been forced to marry the militants, women as young as 15 have been married off to the men of Boko Haram. Women living in Boko Haram camps suffer a lot from sexual violence. Women suffer from the physical and mental pain inflicted on them as they are forced into sex by the militants. Research by the Human Rights Watch has indicated that almost all women who have been forced to live with Boko Haram have been sexually assaulted by Boko Haram members. However, Nigeria’s culture and shame around rape, especially in the more religious areas of Nigeria, has caused women to deny or to never speak of what they have suffered in the militant camps (“Those Terrible Weeks in Their Camp: Boko Haram Violence against Women and Girls in Northeast Nigeria” 34). Looking at the forced labour, marriage, and the rape that thousands of kidnapped women have had to endure in the Boko Haram camps, it is right to say that there is physical and mental harm being caused to the women of the religious groups.

4.4 “Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”

Inflicting conditions of life on the group calculated to bring about its physical destruction is another aspect of the genocide definition which may seem unclear initially. The inflicted conditions can include: the deprivation of food, water, clothing, shelter or the accessibility to medical services, but can also include the ruining of harvests, forced detention in camps or the involuntary relocation as well as population expulsion (Stanton). Maiduguri is the capital of the Borno state in Nigeria, and is one of the worst targeted cities by Boko Haram. Since the uprising of Boko Haram there have been many suicides attacks and raids in the city and its surrounding villages in Northeastern

Nigeria. As Boko Haram militants arrive at the villages, houses are being burnt down whilst people are forced to flee from their homes. Those who are not abducted and forced to live in the Boko Haram camps are often killed on the spot. The few people who are able to escape abduction or death, are left homeless in the rural areas of Nigeria, having to walk for days to reach safety (Kingsley). Boko Haram's presence in Nigeria has forced more than two million people out of their homes. Many Nigerians who have had to leave their home have searched for refuge in other villages or even other countries in an effort to find safety. The raids of Boko Haram have led to countless of families being torn apart and tens of thousands of people living in starvation (Akwagyiram). A significant number of the internally displaced people have been forced to move to refugee camps with limited access to basic human resources such as food and water. The World Food Programme has provided food to over 450,000 people, however despite these efforts there are still thousands of people who have little to no access to food and suffer from famine (Akwagyiram). The UN has estimated that in Northeastern Nigeria there are an estimated 400,000 children are at risk of famine, and that 75,000 of these children are so malnourished that they are at risk of death. Other than being malnourished these children often suffer from diseases such as malaria and diarrhoea which can further decrease their chance of survival (Akwagyiram). The already limited supply of food in the region must be imported by helicopters, to avoid the risk of ambush. Little land can be used for agriculture, as people are prohibited to walk further than 1 km from their village for the risk of attacks by Boko Haram. This has led to an extreme food shortage in Northeastern Nigeria (Kingsley). Regarding the number of people living under inhumane conditions, one could argue that Boko Haram is implementing conditions of life on the groups calculated to bring down its physical destruction. With thousands of people living in famine, and 2 million people having been forced to leave their homes Boko Haram can be seen to fit this aspect of the definition.

4.5 "Imposing measures intended to prevent births within the group"

Trying to impose measures intended to prevent births is one of the acts of the genocide convention that is not necessarily applicable to Boko Haram. Women who have been freed after having lived for months in the Boko Haram camps are often rejected by other Nigerians when they return home. Many people fear that these women still pledge alliance to the Islamic militant organisation. The women are often mistreated, scowled at on the streets women and have difficulty losing the the name of a 'Boko Haram wife'. These women, often young of age, are rejected from society making it hard for them to start a family (Sieff). This could prevent births within a group, however is not directly imposed on them by Boko Haram. Therefore Boko Haram does not fit this

specific act of a genocide under international law.

4.6 “Forcibly transferring children of the group to another group”

In 2014 Boko Haram received extensive international media attention, when they kidnapped 276 schoolgirls from a government secondary school in Chibok, Nigeria. Not only was this the largest attack Boko Haram had ever conducted, it was also the first attack that made the international world aware of the tragedies happening in Nigeria (Human right watch 21). Many of Boko Haram’s attacks have included the abduction of Christian and Muslim children and forcing them to live within the Boko Haram camps. Looking at the genocide act of forcibly transferring children of the group to another group, Boko Haram can be seen to be guilty of abducting children, especially girls, and forcing them to live in the Boko Haram camps. On April 14, 2014 several militants disguised themselves as Nigerian soldiers and were able to lure the Chibok schoolgirls into believing that they were going to save them from Boko Haram. However instead of this, these girls were forcibly brought to a camp located deep in the forest of Northern Nigeria (Zenn 1). Since the initial kidnapping, Boko Haram leader Shekau has released videos of himself with several of the kidnapped girls, warning he would sell the girls as slaves. A year later Shekau aired another video, telling the parents of the kidnapped children not to worry as they had been converted into the Islam and had been married off to the Boko Haram militants. Since then negotiations have taken place between the Nigerian government and Boko Haram. In response to these negotiation about 103 girls have been released. However there are still a suspected 100 Chibok schoolgirls being held captive. Though this was one of the largest kidnappings, Boko Haram has since then kidnapped hundreds of other children from various schools and villages (Zenn 5). According to UNICEF, more than 1000 children alone have been abducted by Boko Haram since 2013 (“Nigeria's Boko Haram Has Abducted More than 1,000 Children since 2013: UN”). This number however also excludes the many adult women who have also been abducted. There are several theories as to why the militants are abducting so many children. One of these claims that the insurgency is trying to spread fear and show its power to the Nigerian population as well as to the government (“Nigeria's Boko Haram Has Abducted More than 1,000 Children since 2013: UN”). The fact that schools have often been targeted relates to the fact that Boko Haram is against westernisation. Western based education is therefore one of the main western aspects Boko Haram wants to forbid. By kidnapping girls from schools the insurgents are trying to stop people from sending their children to western based schools (“Nigeria Chibok Abductions: What We Know.”). Once these women have been kidnapped they are often forced to convert to the Islam, Boko Haram tries to convince its victims that this is the best

choice and if they refuse the victims are often threatened with death (“Those Terrible Weeks in Their Camp: Boko Haram Violence against Women and Girls in Northeast Nigeria” 29). The act of kidnapping children is not only used as a political statement, many children are also used in attacks carried out by Boko Haram (“Nigeria: Abducted Women and Girls Forced to Join Boko Haram Attacks”). According to UNICEF, in 2017 alone, 83 children were used by Boko Haram to carry out suicide bomb attacks. Boko Haram kidnaps children living in a vulnerable situation and gives them a sense of belonging to the group. These children are then manipulated to make them believe that sacrificing their life for Boko Haram is what they are meant to do with their lives (“UNICEF: Boko Haram Use of Child Bombers Soars”). Looking at Boko Haram kidnapping large numbers of children and placing them within the insurgency camps, we can see that the young children who are forced to work and marry the militants, are raped, converted, manipulated and killed by the sect. Regarding the genocide act of “forcibly transferring children of the group to another group”, Boko Haram fits this act of genocide.

Chapter 5

5.1 Is Boko Haram committing a genocide under international law?

Looking at the Convention on the Punishment and Prevention of the Crime Genocide by the UN in comparison to the Boko Haram insurgency, Boko Haram can be seen as committing a genocide against the Muslim and Christian religious groups in Nigeria. Four out of the five previously mentioned acts of genocide can be identified in the Boko Haram insurgency. The only act that is not applicable is the “imposing measures intended to prevent births within the group” (“Convention on the Prevention and Punishment of the Crime of Genocide” 280). However, the convention states that a “genocide means any of the following acts committed with intent to destroy” (“Convention on the Prevention and Punishment of the Crime of Genocide” 280). Therefore for a genocide to officially be taking place under international law it does not have to include all five acts of genocide. The Rwandan genocide and the genocide in Darfur have been officially recognised as genocides according to the UN, however neither of these genocides included all five acts of genocide. As seen in table 1, both the genocides in Rwanda and Darfur only included three out of the five acts of genocide. With Boko Haram being guilty of four out of the five acts, Boko Haram should officially be addressed as committing a genocide under international law according to the UN. However the UN, AU and the international community still seem reluctant to name the conflict in Nigeria a genocide. When looking at the other definitions explored in the literature review, Boko Haram fits many definitions of genocide. One of the main debates regarding the definition of genocide is whether political groups should be included in the UN genocide definition. Both political scientists De Swaan and Chuter argue political groups are also at risk of genocide. Boko Haram’s strong criticism of the western influences in Nigeria, and their aim to halt the spread of democracy throughout Nigeria indicates that there is a political aspect in the conflict. The Council on Foreign Relations addresses Boko Haram as a political group that aims to establish an Islamic state throughout Nigeria. Boko Haram has been accused of not only targeting religious groups, but also political groups (“Boko Haram in Nigeria”). Looking at the example of Rwanda in table 1, this conflict was also initially perceived as a political conflict rather than a genocide, which led to a delayed response to the conflict (Cole 20). As stated Boko Haram is targeting religious groups as well as political groups and therefore if the UN were to add political groups to the convention, the genocide could be addressed from two perspectives and reemphasise the claim that Boko Haram is officially committing a genocide. Even though political groups are not part of the convention, Boko Haram can still be seen as targeting the two religious groups of Muslims and

Christians and therefore should be addressed as a genocide. One of the main problems scholars have with the UN convention of genocide is the “intent to destroy, in whole or in part” aspect of the definition (Drost 15). As seen in table 1, Darfur and Rwanda were both genocides with the intention to destroy the ethnic groups in whole, whilst Boko Haram can be seen as trying to destroy the religious groups in part. Drost’s definition argues that for a genocide to occur it does not have to intend to destroy in whole or in part. People being killed due to their religious beliefs should be enough reason to constitute it as a genocide (15). Though the UN, AU and the international community are reluctant to identify Boko Haram as committing a genocide under international law, looking at Boko Haram in correlation with the Rwandan Genocide and the genocide in Darfur together with the definitions of the UN, Drost, de Swaan and Chuter it is clear that Boko Haram should officially be addressed as committing a genocide. The only difference is that the genocide in Rwanda and Darfur both did intend to destroy in whole, whilst Boko Haram intends to destroy in part. Despite this, the UN convention addresses genocide as the intent to destroy in whole or in part. Therefore Boko Haram destroying in part can also be seen fit the genocide definition and thus the insurgency correlates with the UN definition of genocide according to the convention. According to the convention the international community and the UN are legally required to respond to the genocide in Nigeria. However, as the UN has not yet declared it a genocide, little action has been taken.

5.2 What is being done against boko Haram?

Other than the Genocide Watch, no international organisation has acknowledged the genocide in Nigeria. This is however not uncommon. As previously identified when a conflict is officially addressed as a genocide by the UN, there is an increase of international pressure from the UN and the international community to respond to the genocide. This has led to several genocides not being identified as a genocide until after the killings had taken place. In the past the UN Security Council has failed to identify genocides as there is rarely a unanimous consensus that a genocide is or is about occur (Cole 20). As seen in the Rwandan genocide, whilst the killings were claiming thousands of lives, the UN Security Council was still debating whether the conflict in Rwanda was really a genocide (Kamanzi 330). Therefore even though the definition can be seen to fit Boko Haram, as long as Boko Haram is not seen as committing a genocide by the UN there will be no legal pressure to respond to the insurgency. In May 2015 when Muhammadu Buhari was elected president of Nigeria, Boko Haram was Nigeria’s biggest security threat. Prior to Buhari, Goodluck Johnathan’s period in office was seen as the years that Boko Haram was able to gain most

de facto control of Northeastern Nigeria (Onapajo 65). Looking at president Johnathan's counterinsurgency strategies from 2011 until 2015 there were limited efforts in trying to halt Boko Haram (Onapajo 66). During his administration president Johnathan declared a state of emergency and a war on Boko Haram as he called for a military approach to counter the insurgency. Johnathan was convinced that this would be a successful peacekeeping mission, however this was not the case. The failure of the military approach was primarily due to corruption, as money went missing from military funds which led to unpaid soldiers and a lack of weapons and this substantially jeopardised the operation (Onapajo 66). The failure of Johnathan's counter terrorism strategies did not help him in the re-elections in 2015, as 67% of the population believed that the government was not doing enough against Boko Haram (Onapajo 66). Therefore the counterinsurgency strategies was a popular topic within Buhari's election campaign. Together with the use of military force Buhari adopted a multilateral approach against the insurgency. He sought for international cooperation to fight. He prioritised the cooperation between Niger, Chad and Cameroon, as these countries suffered from the insurgency too. Buhari also sought assistance from western countries in his fight against Boko Haram. Initially these countries were reluctant due to the failures of Johnathan's military approach. Eventually Buhari was able to improve the bilateral relationship between the US (United States) and Nigeria (Onapajo 68). At the end of 2015, after having been in office for a few months Buhari declared Boko Haram technically defeated (Nielsen). A year later, Buhari claimed that Boko Haram had lost all territory and was therefore no longer a security issue in Nigeria (Nielsen). Unfortunately, despite Buhari's efforts of trying to halt Boko Haram, with their most recent attack on June 16, 2018, the insurgency still poses a security threat throughout Nigeria ("At Least 31 Killed in Suicide Blasts by Suspected Boko Haram Jihadists in Nigeria").

In 2013 the State department of the US declared Boko Haram a terrorist organisation, however it has never associated the term genocide with the Boko Haram insurgency. The US is the most visible international actor in trying to counter the Boko Haram insurgency, due to its internationally known role as "world policemen" and due to its economical and political interest in Nigeria (Onapajo 349). However the US - Nigeria relationship was troublesome during the period that president Johnathan was in office. Prior to 2015 there was little international effort in preventing the Boko Haram insurgency as the US was cautious in deciding how to counter the insurgency. When the Chibok schoolgirls were kidnapped, the US military provided the Nigerian army with drones to locate the girls. However the US never spent any time or money on the thousands of other people who were killed or abducted by the militants (Caulderwood). Being one of the largest oil exporters the US can be seen to have political and economic reasons to promote

peace and stability in Nigeria. Under the Buhari presidency the US eventually offered to train Nigerian soldiers to take part in peace-keeping missions. They only sent a limited number of people and limited resources to train the Nigerian soldiers. Other than from the US there has been limited response from the rest of the international community, including all other 148 countries who have ratified the genocide convention (Campbell 15). Though some efforts have been made Boko Haram still poses a serious threat in Nigeria. The African Union is another regional organisation that has vowed to never let another genocide take place. African states have granted permission for the AU to intervene a genocide when the state itself, or the government of another African Union member state acknowledges a genocide (“Peace and Security Council”). The Nigerian Tribune has acknowledged that there is a future risk of genocide by Boko Haram (“Drowning in Blood: Nigerians Protest Violent Deaths, Massacres across the Country”). Therefore according to the Peace and Security council of the AU, they should have already intervened in the Boko Haram insurgency as there has been a claim of possible genocide. This has however not been the case. In 2015 the United Nations High Commissioner for Human Rights Zeid Ra’ad Al Hussein stated that “the authorities and international community should step up their efforts to respond adequately to the needs of victims, while the responses to massive violations of human rights had to be strong, coordinated and principled, and must uphold the values of democracy and human rights” (“Human Rights Council Opens Special Session in Light of Terrorist Attacks and Human Rights Abuses by Boko Haram.”). At that moment in time the insurgency had already been going on for 6 years. According to the convention the Boko Haram genocide should have been prevented much earlier. Though the UN clearly requests the international community to respond to the crimes by Boko Haram, if they would have addressed Boko Haram as committing a genocide instead of a terrorist organisation, states would have been legally pressured to respond to the crimes. Financial aid has been provided to Nigeria by the international community, this aid was supposed to be for the benefit of all the victims of Boko Haram. However a lack of oversight within Nigeria has led to this aid being diverted and used for other causes. All though some aid has provided food and refuge for citizens, the corruption has caused a significant amount of money to disappear instead of reaching the people who need it the most (Alqali). Other than the financial aid, the ‘on the field’ efforts from the US in Nigeria have been the largest international efforts in stopping Boko Haram (Onapajo 349). The convention has been ratified by 149 countries and is a norm under international law. Therefore the other states should legally also have been expected to respond to Boko Haram. This has however not been the case yet, as the UN does not address Boko Haram as committing a genocide.

Chapter 6

6.1 Conclusion

Scholars have looked at genocide in many different ways to try and examine which characteristics best explain this crime against humanity. There are disagreements on what the definitions should entail and what should be left out. Looking at the criticism regarding the definition of the UN, it seems there may never be a unanimous consensus on what the definition of a genocide is. Partially due to the disagreement on the definition, there has been a reoccurring failure to identify genocides during recent history. The failure of not acknowledging the genocides in Rwanda and Darfur until after thousands of people had been killed, has added a new international pressure to the term genocide. The UN was criticised due to these failures, and therefore now vows to never let another genocide happen (Berdal 16). However to what extent can Boko Haram be seen as committing a genocide under international law according to the UN, and how does this increase the legal pressure for the international community to respond to the insurgency in Nigeria? In accordance to the United Nations Convention on the Prevention and Punishment of the Crime Genocide, Boko Haram is committing a genocide under international law. One of the main defining factors is whether Boko Haram can be seen as targeting a national, ethnic, religious or racial group, with the aim of trying to destroy in whole or in part the group. Looking at the insurgency trying to establish an Islamic state according to Sharia law, as well as trying to liberate Nigeria from any western influences, the sect is targeting the Christian and the modern Muslim religious groups. Those who do not agree with the mission of Boko Haram, or come in the way of establishing an Islamic State are possible victims to Boko Haram. Comparing the Convention on the Prevention and Punishment of the Crime Genocide to the crimes committed by Boko Haram, the insurgency can legally be seen as committing a genocide according to the UN. Boko Haram can be seen to include more acts of genocide from the UN definition than the genocides in Rwanda and Darfur. Therefore as Rwanda and Darfur fit the convention and have officially been addressed as genocides with three out of five acts present, Boko Haram should also be addressed as committing a genocide as it fits four out of the five acts of genocide. This is however not the case. The recurring failure of the UN and the international community to recognise a conflict as a genocide is believed to be due to the fact that when addressing something as a genocide there is an immediate moral and legal pressure and obligation to respond to it (“Convention on the Prevention and Punishment of the Crime of Genocide” 280). Nigeria’s efforts to stop Boko Haram have been partially effective. Boko Haram has decreased in size, however unlike previously claimed it has not yet been fully contained.

The US has economic interest in Nigeria and this has led to some counterinsurgency efforts. These limited efforts were mainly implemented after 2015. The rest of the international community has largely failed to respond to the crisis. The AU who has vowed to never let a genocide happen again, has failed to address the concerns of a genocide in the Nigerian Tribune. The response mechanism to Boko Haram has been limited as Boko Haram still poses a serious security threat in Nigeria and surrounding regions. Having been active for almost 10 years, Boko Haram has been addressed as a terrorist organisation by the US department of State, the UN as well as the AU. Neither the UN nor the US or the AU have acknowledged a genocide in Nigeria. The only organisation that has acknowledged Boko Haram as committing a genocide is the Genocide Watch. All though the Genocide Watch tries to make people aware of the genocide, it has been criticised for its quick judgements and has caused people to doubt the reliability of the organisation. Neither does the Genocide Watch have any legal influence. The only definition with legal implications is the UN convention on genocide. Therefore as long as the genocide is not recognised by the UN the response to Boko Haram will be limited. If the insurgency would no longer be addressed as a terrorist organisation but as a genocide instead, the UN could legally and morally oblige the international community to respond and to ensure the protection of human rights and eradicate the security threat of Boko Haram in Nigeria.

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Table 1.

Definitions of genocide in correlation to Boko Haram, Rwandan Genocide, and the genocide in Darfur.-1

United Nations definition of Genocide	Boko Haram	Rwandan Genocide	Genocide in Darfur
“Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group” (280).	Identified - Targeting of the Muslim and Christian community in Northern Nigeria (Campbell 15).	Identified - Targeting Tutsi racial group and moderate Hutus (“World Without Genocide”).	Identified - Targeting various ethnic groups in Sudan (“Summary”).
“Killing members of the” (280).	Identified - Killing members of both religious group (Campbell 15).	Identified - Killing of 500,000 Tutsis (“World without Genocide”).	Identified - Massacres and executions of the ethnic groups (“Summary”)
“Causing serious bodily or mental harm to members of the group” (280).	Identified - Widespread cases of torture, rape, and mutilation (Stanton).	Identified - Cases of mass rapes and killings, also causing spread of HIV/Aids (“Rwanda Genocide of 1994”)	Identified - Cases of women being raped, villages destroyed, and people being executed (“Summary”)
“Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part” (280).	Identified - Involuntary relocation to refugee camps or surrounding regions (Stanton).	Identified - Mass migration of 2 million people to neighbouring countries (“Rwanda Genocide of 1994”).	Identified - Deliberately destroying food stocks and other important supplies (“Summary”).
“Imposing measures intended to prevent births within the group” (280).	Not identified	Not identified	Not Identified
“Forcibly transferring children of the group to another group” (280)	Identified - Kidnapping of 276 school girls in 2014 (Human right watch 21).	Not identified	Not Identified

Peter Drost's definition of genocide	Boko Haram	Rwandan Genocide	Genocide in Darfur
<p>“Genocide is the deliberate destruction of physical life of individual human beings be reason of their membership of any human collectivity as such”</p> <p>Genocide does not have to destroy the group in whole or in part. According to Drost killing people because of their beliefs is enough to address a genocide (15).</p>	<p>Not Identified - Christians and Muslims are being killed by Boko Haram as they belong to these two religious groups and oppose Nigeria under Sharia Law (“Who Are Nigeria's Boko Haram Islamist Group?”). However as in Drost’s definition they are not attempting to kill the whole population of these two groups, but are killing in part.</p>	<p>Not identified - The Hutus really did try to destroy the Tutsi ethnic group in whole (“Rwanda Genocide of 1994”).</p>	<p>Not identified - The government did try to destroy the various ethnic groups in Darfur (“Summary”).</p>
De Swaan and Chuter definition of genocide	Boko Haram	Rwandan Genocide	Genocide in Darfur
<p>Political groups can also be at risk of a genocide and should therefore be included to the UN convention.</p>	<p>Identified - Boko Haram trying to make Nigeria an Islamic state according to Sharia law, the conflict can be addresses as a political conflict between two groups (“Who Are Nigeria's Boko Haram Islamist Group?”).</p>	<p>Identified - Romeo Dallaire initially thought that the killing of the Tutsis was just the killing of political enemies and therefore not legally a genocide according to the convention (Cole 22).</p>	<p>Identified - the genocide in Darfur has a political background to it. The Fur, Masalit, and Zaghawa ethnic groups sought for power-sharing within the state. The government saw this as a political threat and violently targeted the ethnic groups (“Summary”).</p>